**REMARKS**

This Amendment is in response to the Office Action dated May 25, 2007 ("OA"). In the Office Action, the abstract was objected to, claim 31 was objected to, claims 1-11 and 24-34 were rejected under 35 USC §101, claims 1-34 were rejected under 35 USC §112, and claims 1-34 were rejected under 35 USC §103. By this Amendment, the abstract is amended, claims 6, 18 and 29 are canceled and claims 1, 2, 7, 11, 12, 13, 19, 24-28, 30, 31 and 34 are amended. Currently pending claims 1-5, 7-17, 19-28 and 30-34 are believed allowable, with claims 1, 12, 13 and 24 being independent claims.

AMENDMENTS TO THE SPECIFICATION:

The abstract was objected to because "the term 'attempting' is not a concrete solution to bring the resource tier in compliance with the management policy." OA, pg. 2.

The abstract as currently amended recites, ". . . increases available capacity in containers in order to bring the containers in compliance with the management policy . . . ." The wording added to the abstract by the present amendment summarizes the passage found at least at page 9, lines 23-27 of the specification. Thus, no new matter is believed to be introduced to the Application by these amendments to the specification.

The Applicants respectfully submit that increasing available capacity in containers is a concrete solution which may bring the resource tier in compliance with the management policy. This is evident because increasing available capacity is a specific, concrete method step. Thus, the abstract as currently written overcomes the objection to the specification.

CLAIM OBJECTIONS:

Claim 31 was objected to because it should have been a computer program product. OA, pg. 2. Claim 31 has been amended to recite, "The computer program product of claim 30 . . ." The Applicants thank the Examiner for advising of this typographical error.

CLAIM REJECTIONS UNDER 35 USC §101:

Claim 1

Claims 1-11 and 24-34 were rejected under 35 USC §101 as allegedly being directed to non-statutory subject matter. Specifically, "While

managing a mutli-tired [sic] resource by automatically bringing the resource tier in compliance with the management policy of the resource is not in compliance could reasonably be tangible result. Actually claims 1 and 24 appear to have not claimed result under the condition when the resource is in compliance with the management policy to form the basis statutory subject matter under 35 U.S.C. 101." OA, pg. 2.

Claim 1 as currently amended recites:

A method for managing a multi-tiered resource system, the method comprising:
automatically determining if a resource tier is in compliance with a management policy, wherein the management policy includes requiring that an expiration date of the resource tier occur after a maintenance date; and
if the resource tier is not in compliance with the management policy, automatically increasing available capacity in containers in order to bring the containers in compliance with the management policy.

Support for this amendment is provided in at least at page 9, lines 23-27 of the specification, which recites:

The processing module 614 is configured to automatically attempt to bring resource tiers that are not in compliance with the management policy into compliance. In a particular embodiment of the invention, the processing module 614 is configured to increase available capacity in containers in order to bring them into compliance. App., pg. 9, ln. 23-27.

The Applicants respectfully submit that claim 1 is directed to statutory subject matter because increasing available capacity in containers is a concrete, tangible and useful result. If the life expectancy of a container is inadequate, increasing available capacity in the container is advantageous because it increases the life expectancy of the container. Thus, increasing available capacity in a container is a useful result even in the event that the container is not successfully brought into compliance with the management capacity.

For at least these reasons, claim 1 is believed allowable. The Applicants respectfully request reconsideration and allowance of claim 1.

Claims 2-5 and 7-11

Claims 2-5 and 7-11 are dependent on and further limit claim 1. Since claim 1 is believed allowable, claims 2-5 and 7-11 are also believed allowable for at least the same reasons as claim 1.

Claim 24

Claim 24 was rejected according to the same rationale as claim 1.  OA, pg. 2.

Claim 24 as currently amended recites:

A computer program product embodied in a tangible media comprising: computer readable program codes coupled to the tangible media for managing a multi-tiered resource system, the computer readable program codes configured to cause the program to:
automatically determine if a resource tier is in compliance with a management policy; and
automatically increase available capacity in containers in order to bring the containers in compliance with the management policy if the resource tier is not in compliance with the management policy.

Support for this amendment is provided in at least at page 9, lines 23-27 of the specification, which recites:

The processing module 614 is configured to automatically attempt to bring resource tiers that are not in compliance with the management policy into compliance.  In a particular embodiment of the invention, the processing module 614 is configured to increase available capacity in containers in order to bring them into compliance.  App., pg. 9, ln. 23-27.

The Applicants respectfully submit that claim 24 is directed to statutory subject matter because increasing available capacity in containers is a concrete, tangible and useful result.  The reasons cited above regarding claim 1 as to why increasing available capacity in containers is useful apply equally to claim 24.

For at least these reasons, claim 24 is believed allowable.  The Applicants respectfully request reconsideration and allowance of claim 24.

Claims 25-28 and 30-34

Claims 25-28 and 30-34 are dependent on and further limit claim 24. Since claim 24 is believed allowable, claims 25-28 and 30-34 are also believed allowable for at least the same reasons as claim 24.

CLAIM REJECTIONS UNDER 35 USC §112:

Claim 1

Claims 1-34 were rejected under 35 USC §112 as allegedly being indefinite.  Specifically, ". . . the term 'attempting' raises doubt as to whether the resource tier will be in compliance because it is not a concrete solution to bring the resource tier in compliance with the management policy."  OA, pg. 3.

The Applicants respectfully submit that that the argument cited above is moot because the term "attempting" is not found in claims 1 as currently amended. Specifically, claim 1 no longer contains the wording, ". . . attempting to bring the resource tier in compliance with the management policy."

Claim 1 as currently amended recites, ". . . increasing available capacity in containers in order to bring the containers in compliance with the management policy." Support for this amendment is provided in at least at page 9, lines 23-27 of the specification, which recites:

> The processing module 614 is configured to automatically attempt to bring resource tiers that are not in compliance with the management policy into compliance. In a particular embodiment of the invention, the processing module 614 is configured to increase available capacity in containers in order to bring them into compliance. App., pg. 9, ln. 23-27.

The Applicants respectfully submit that increasing available capacity in containers is a concrete solution which may bring the resource tier in compliance with the management policy. This is evident because increasing available capacity is a specific, concrete method step.

For at least these reasons, claim 1 is believed allowable. The Applicants respectfully request reconsideration and allowance of claim 1.

Claims 2-5 and 7-11

Claims 2-5 and 7-11 are dependent on and further limit claim 1. Since claim 1 is believed allowable, claims 2-5 and 7-11 are also believed allowable for at least the same reasons as claim 1.

Claim 12

Claim 12 was rejected according to the same rationale as claim 1. OA, pg. 3.

The Applicants respectfully submit that that the argument cited above is moot because the term "attempting" is not found in claim 12 as currently amended. Specifically, claim 12 no longer contains the wording, ". . . attempting to bring the resource tier in compliance with the management policy . . . ."

Claim 12 as currently amended recites, ". . . increasing available capacity in containers in order to bring the containers in compliance with the management policy . . . ." Support for this amendment is provided in at

least at page 9, lines 23-27 of the specification, which is reproduced above. The Applicants respectfully submit that increasing available capacity in containers is a concrete solution for the reasons noted above regarding claim 1.

For at least these reasons, claim 12 is believed allowable. The Applicants respectfully request reconsideration and allowance of claim 12.

Claim 13

Claim 13 was rejected according to the same rationale as claim 1. OA, pg. 3.

The Applicants respectfully submit that that the argument cited above is moot because no form of the term "attempting" is found in claim 13 as currently amended. Specifically, claim 13 no longer contains the wording, ". . . attempt to bring the resource tier in compliance with the management policy . . . ."

Claim 13 as currently amended recites, ". . . increase available capacity in containers in order to bring the containers in compliance with the management policy . . . ." Support for this amendment is provided in at least at page 9, lines 23-27 of the specification, which is reproduced above. The Applicants respectfully submit that increasing available capacity in containers is a concrete solution for the reasons noted above regarding claim 1.

For at least these reasons, claim 13 is believed allowable. The Applicants respectfully request reconsideration and allowance of claim 13.

Claims 14-17 and 19-23

Claims 14-17 and 19-23 are dependent on and further limit claim 13. Since claim 13 is believed allowable, claims 14-17 and 19-23 are also believed allowable for at least the same reasons as claim 1.

Claim 24

Claim 24 was rejected according to the same rationale as claim 1. OA, pg. 3.

The Applicants respectfully submit that that the argument cited above is moot because no form of the term "attempting" is found in claim 24 as currently amended. Specifically, claim 24 no longer contains the wording,

". . . attempt to bring the resource tier in compliance with the management policy . . . ."

Claim 24 as currently amended recites, ". . . increase available capacity in containers in order to bring the containers in compliance with the management policy . . . ." Support for this amendment is provided in at least at page 9, lines 23-27 of the specification. The Applicants respectfully submit that increasing available capacity in containers is a concrete solution for the reasons noted above regarding claim 1.

For at least these reasons, claim 24 is believed allowable. The Applicants respectfully request reconsideration and allowance of claim 24.

### Claims 25-28 and 30-34

Claims 25-28 and 30-34 are dependent on and further limit claim 24. Since claim 24 is believed allowable, claims 25-28 and 30-34 are also believed allowable for at least the same reasons as claim 24.

### CLAIM REJECTIONS UNDER 35 USC §103:

Claims 1-10, 12, 13-22 and 24-33 are rejected under 35 USC §103 as unpatentable over "The Use of Life Expectancy to Manage Lotus Notes® Email Storage" by William "Bucky" Pope and Lily Mummert ("Bucky") in view of "Tivoli® Storage Network Manager" ("Tivoli"). OA, pg. 3.

Claims 11, 23 and 34 are rejected under 35 USC §103 as unpatentable over Bucky in view of Tivoli and further in view of "Advances in Windows NT Storage Management" by Luis Felipe Cabrera, Brian Andrew, Kyle Peltonen and Norbert Kusters ("NT"). OA, pg. 9.

A *prima facie* case for obviousness can only be made if the combined reference documents teach or suggest all the claim limitations. MPEP 2143.

### Claim 1

Claim 1 recites, in part, ". . . automatically determining if a resource tier is in compliance with a management policy, wherein the management policy includes requiring that an expiration date of the resource tier occur after a maintenance date . . . ." Thus, claim 1 requires the existence of a management policy. Claim 1 further requires making a determination that a resource tier complies with the management policy. Furthermore, it is emphasized that claim 1 requires that this determination is automatic. It is noted that the word "automatically" is added by the

present amendment.  Support for this amendment is found in at least pg. 6, ln. 13-18 of the specification.  Additionally, claim 1 requires that the management policy includes requiring that an expiration date of the resource tier occurs after a maintenance date.  It is noted that this limitation was previously introduced by claim 6, which is now cancelled.

Claim 1 further recites, in part, ". . . if the resource tier is not in compliance with the management policy, automatically increasing available capacity in containers in order to bring the containers in compliance with the management policy."  Antecedent basis clarifies that the management policy of this limitation of claim 1 is the same management policy as in the first cited claim limitation.  Thus, claim 1 requires automatically bringing containers in compliance with a management policy which includes a requirement that an expiration date of the resource tier occurs after a maintenance date.

In rejecting claim 1, the Examiner alleges that Bucky teaches ". . . determining if a resource tier is in compliance with a management policy . . . ."  OA, pg. 4.  In support of this position, the Examiner cites the following passage of Bucky:

We require a process to run each week to collect and store the observations.  This process must run successfully on many servers in our Notes domain, which requires that the servers and the network be available when we collect.  Usually, things go smoothly . . . .  Bucky, pg. 5, col. 2, ln. 7-11.

The Applicants respectfully submit that the cited passage does not teach or suggest a management policy.  While the passage discloses a process which executes on a weekly process, absent from the passage is any teaching or suggestion that the process determines if a resource tier is in compliance with a management policy.

The Examiner additionally cites the following passage of Bucky:

Each line contains statistics for a file including the calculated growth rate and the impact of that file on the life expectancy of the file system.  The line includes a 'move' checkbox.  If the administrator checks the box, a calculation is made changing the file system summary statistics mentioned above.  In this way, the administrator can alternately check and uncheck boxes associated with different files to develop a move plan that meets their objectives. Bucky, pg. 6, col. 2, ln. 21-30.

The passage discloses allowing an administrator to determine an optimal move plan based on input regarding the impact of individual files on life expectancy. The passage discloses checkboxes which are checked and unchecked by an administrator. Checkboxes are a notorious part of the graphical human user interface paradigm common to most modern computer programs. Those skilled in the art will appreciate that checkboxes are user interface elements which are operated by human beings. It follows that the process disclosed requires manual intervention. However, claim 1 requires that the determination if the resource tier complies with the management policy is automatic. Because Bucky teaches a process requiring manual intervention, Bucky clearly cannot teach this limitation of claim 1.

The limitation of claim 1, ". . . wherein the management policy includes requiring that an expiration date of the resource tier occur after a maintenance date . . .", was originally introduced by claim 6. In rejecting claim 6, the Examiner alleges that Tivoli teaches this claim limitation. OA, pg. 7. In support of this position, the Examiner cites the following passage of Tivoli:

> By applying policy-driven automation to monitored file systems, Tivoli Storage Network Manager enables you to set policies across an entire SAN, computer group, to individual computers, and to their specific file systems. Tivoli Storage Network Manager continuously monitors these resources as they approach a policy-defined threshold or capacity level. Tivoli, pg. 2, col. 2, ln. 17-20 through pg. 2, col. 3, ln. 1-7.

The Examiner further alleges that the "threshold is the expiration date for the resource system and the system policy monitors the system form [sic] reaching the expiration date." OA, pg. 7.

In making a *prima facie* case of equivalence, the Examiner should provide an explanation and rationale in the Office action as to why the prior art element is an equivalent. MPEP 2183.

The Applicants respectfully submit that Tivoli contains no teaching or suggestion of requiring that an expiration date of a resource tier occurs after a management date. The cited passage of Tivoli discloses a threshold. However, the Examiner has not explained, and it is not evident, why the threshold is inherently equivalent to a maintenance date as required by claim 1. Neither the cited passage nor any other passage of Tivoli teaches or suggests that the threshold is a date or another measurement of a temporal

quantity, e.g., days of life expectancy.  To the contrary, Tivoli discloses a
"policy-defined threshold or capacity level" but subsequently speaks only of
a threshold.  This suggests that the threshold of Tivoli is a capacity level
as opposed to a date value.

Furthermore, the Examiner's argument that the system policy monitors
the system from reaching the expiration date is purely conclusory.  The
Examiner has not explained, and it is not apparent, how the system policy
monitors the system from reaching the expiration date.

For these reasons, the Applicants respectfully submit that Tivoli
cannot teach bringing containers in compliance with a management policy which
includes a requirement that an expiration date of the resource tier occurs
after a maintenance date.

Furthermore, the Examiner concedes that "However Bucky does not
disclose, automatically attempting to bring the resource tier in compliance
with the management policy."  OA, pg. 4.  The Applicants have reviewed Bucky
and concur that Bucky fails to teach or suggest automatically enforcing
compliance with a management policy.  Thus, Bucky clearly cannot teach or
suggest automatically bringing containers in compliance with a management
policy which includes a requirement that an expiration date of a resource
tier occurs after a maintenance date.

Additionally, obviousness cannot be established by combining prior art
to produce the claimed invention absent some teaching or suggestion
supporting the combination.  In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d
1780, 1783-84 (Fed. Cir. 1992).  The mere fact that the prior art may be
modified in the manner suggested by an Examiner does make the modification
obvious unless the prior art suggested the desirability of the modification.
Id.

The Examiner alleges:

It would have been obvious to a person of ordinary skill in art at the
time of invention was made to incorporate the teaching of Tivoli into
the method of Bucky to have a method of automatically bringing the
resource tier in compliance with the management policy.  The
modification would have been obvious because one of the ordinary skills
of the art would have found it motivated to automatically bring the
resource tier into compliance in order to reduce administrative
workload and cost.  OA, pg. 4-5.

The Applicants respectfully submit that the advantage alleged by the Examiner to justify the proposed combination of Bucky and Tivoli does not stand up to close scrutiny. As previously noted, Bucky teaches a process for increasing the life expectancy of a file system which requires manual intervention. Bucky does not express any appreciation of the advantages of automating the process disclosed. Furthermore, Tivoli does not express any appreciation of the advantages of maximizing the life expectancy of a file system. In this light, it is apparent that the only suggestion for combining Bucky and Tivoli in the manner advanced by the Examiner stems from hindsight knowledge impermissibly derived from the Applicant's disclosure.

For at least these reasons, claim 1 is believed allowable over Bucky in view of Tivoli. The Applicants respectfully request reconsideration and allowance of claim 1.

Claims 2-3

Claims 2-3 are dependent on and further limit claim 1. Since claim 1 is believed allowable over the cited art, claims 2-3 are also believed allowable for at least the same reasons as claim 1.

Claim 4

Claim 4 recites, "The method of claim 2, wherein allocating additional capacity to the containers includes utilizing available capacity from other containers in the resource system." It is emphasized that claim 4 thus requires that additional capacity is allocated. This is evident from the wording of claim 4 itself. Furthermore, because claim 4 is dependent on claim 2, claim 4 incorporates all limitations found in claim 2. Claim 2 recites, "The method of claim 1, wherein increasing available capacity in containers includes allocating additional capacity to containers belonging to the resource tier until the resource tier is in compliance with the management policy." This further clarifies that claim 4 requires allocating additional capacity.

In rejecting claim 4, the Examiner alleges that Bucky teaches the claim limitation, "wherein allocating additional capacity to the containers includes utilizing available capacity from other containers in the resource system." OA, pg. 6. Specifically, the Examiner cites the following passage: "If space is available elsewhere, a second approach is to move files out of the file system." Bucky, pg. 4, col. 2, ln. 12-13.

As previously noted, claim 4 requires that additional capacity is allocated. The Applicants respectfully submit that moving files out of a file system cannot be equivalent to allocating additional capacity. Those skilled in the art will appreciate that the capacity of a file system is the total amount of data which the file system can hold. Capacity is different than free space, which is the portion of the total capacity which does not currently contain data and which may therefore store new data. Moving a file out of a file system generally increases the free space available at the file system. This occurs because the subset of the total capacity previously occupied by the file is now available to store new data. Moving a file out of a file system does not, however, change the capacity of the file system. Because moving a file out of a file system does not increase the capacity of the file system, it cannot be equivalent to allocating additional capacity as is required by claim 1.

The Examiner further alleges that "having space available elsewhere means space in other containers." OA, pg. 6. The Applicants respectfully submit that space "available elsewhere" is not inherently equivalent to space in other containers as required by claim 4. "Elsewhere" is a broad term which can refer to any other location. Thus, it is not evident that "elsewhere" refers to a location that is part of a container as required by claim 4.

For at least these reasons, claim 4 is believed allowable over Bucky in view of Tivoli. The Applicants respectfully request reconsideration and allowance of claim 4.

Claim 5

Claim 5 recites, "The method of claim 2, wherein allocating additional capacity to the containers includes allocating additional capacity to containers of higher importance before allocating additional capacity to containers of lower importance."

The Examiner alleges that Bucky teaches claim 5. OA, pg. 6. In support of this position, the Examiner cites the following passage of Bucky:

> Administrators can look through the list and select the candidates to move until they reach some desired threshold of new life expectancy. This is necessary because the largest fastest growing files are the prime candidates . . . . Bucky, pg. 4, col. 2, ln. 43 through pg. 5, col. 1, ln. 3.

The Examiner further alleges that "fastest growing files is the container with high priority." OA, pg. 6. The Examiner has not explained, and it is not evident, why the fastest growing files are equivalent to containers of higher importance. Furthermore, those skilled in the art will appreciate that certain resources (e.g., data, computing systems, or other functionality) are referred to as "mission critical" to indicate that they are particularly essential to an organization. Mission critical resources are typically those without which core functions would fail. Resources which are mission critical are clearly of higher importance than resources which are not mission critical. Whether or not a file is mission critical is distinct from the rate of growth of the file. Thus, a slowly growing file may be mission critical and therefore of higher importance relative to a rapidly growing file which is not mission critical and therefore of lower importance.

Furthermore, In the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art. MPEP 2111.01 *citing Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d 1132, 1136 (Fed. Cir. 2003). Thus, the Applicants can act as their own lexicographers and define in the claims what they regard as their invention essentially in whatever terms they choose so long as any special meaning assigned to a term is clearly set forth in the specification. MPEP 2173.01

Claim 5 requires "containers of higher importance" and "containers of lower importance". The specification describes containers as follows: "As used herein, a container is an identifiable part of a resource having a storage limit. A container, for example, may be a disk partition, a group of storage volumes, or an entire storage system." App., pg. 5, ln. 7-10. A file is not inherently equivalent to a container because files do not inherently have storage limits and containers have storage limits. Because a file is not inherently equivalent to a container, it follows that a fastest growing file is not inherently equivalent to a container of higher importance.

For at least these reasons, claim 5 is believed allowable over Bucky in view of Tivoli. The Applicants respectfully request reconsideration and allowance of claim 5.

Claims 7-8

Claims 7-8 are dependent on and further limit claim 1. Since claim 1 is believed allowable over the cited art, claims 7-8 are also believed allowable for at least the same reasons as claim 1.

Claim 9

Claim 9 recites, "The method of claim 8, wherein calculating the life expectancy of the containers includes adjusting the life expectancy of the containers to account for container lead-time."

In the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art. MPEP 2111.01 *citing Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d 1132, 1136 (Fed. Cir. 2003). Thus, the Applicants can act as their own lexicographers and define in the claims what they regard as their invention essentially in whatever terms they choose so long as any special meaning assigned to a term is clearly set forth in the specification. MPEP 2173.01

The specification defines "lead-time" as follows:

As used herein, lead time is the time needed to complete an action. App., pg. 12, ln. 2-3.


Thus, claim 9 requires adjusting the life expectancy of containers to account for the time needed to complete an action.

The Examiner alleges that Bucky teaches claim 9. OA, pg. 8. In support of this position, the Examiner cites the following passage of Bucky:

. . . we need to keep a size history for each file in the file system. When we want to calculate the growth rate, we create a reconstituted history of the file system based on its current composition. That is, we accumulate the histories of each file currently in the file system creating a new aggregate history and we run a regression analysis against this reconstituted history. This reconstitution is illustrated in Figure 2. It is evident from this figure that our new prediction will be much more accurate than if we used the historical size of the file system alone. Bucky, pg. 3, col. 2, ln. 18-28.


The Applicants respectfully submit that the passage cited by the Examiner fails to teach or suggest account for the time needed to complete an

action.  The Examiner has not explained, and it is not evident, how the cited passage teaches lead-time as the term is used in the specification.

For at least these reasons, claim 9 is believed allowable over Bucky in view of Tivoli.  The Applicants respectfully request reconsideration and allowance of claim 9.

Claim 10

Claim 10 recites, "The method of claim 1, further comprising if the resource tier cannot be brought in compliance with the management policy, alerting that the resource tier is not in compliance with the management policy."  Thus, claim 10 not only requires alerting but further requires that the alert is issued if a resource tier cannot be brought into compliance with a management policy.  Claim 10 further requires that the alert specifies that the resource tier is not in compliance with the management policy.

The Examiner alleges that Tivoli teaches claim 10.  OA, pg. 8.  In support of this position, the Examiner cites the following passage of Bucky:

Events and data from the SAN are captured and processed providing you with information, alerts, and notification for problem resolution. Tivoli, pg. 3, col. 1, ln. 12 through pg. 3, col. 2, ln. 3.

The Examiner further alleges that "any events (alerts, expiration date) are recorded and processed.  OA, pg. 8.  While Tivoli discloses "alerts", minimal detail is disclosed regarding the alerts.  Specifically, devoid from Tivoli is any teaching or suggestion that an alert is issued if a resource tier cannot be brought into compliance with a management policy as is required by claim 10.  Tivoli similarly fails to contain any teaching or suggestion that an alert specifies that a resource tier is not in compliance with a management policy as is required by claim 10.

For at least these reasons, claim 10 is believed allowable over Bucky in view of Tivoli.  The Applicants respectfully request reconsideration and allowance of claim 10.

Claim 12

Claim 12 is rejected under rationale substantially similar to those listed regarding claim 1.  OA, pg. 8-9.

Thus, claim 12 is believed allowable for at least the reasons provided above regarding claim 1. The Applicants therefore respectfully request reconsideration and allowance of claim 12.

Claim 13

The Examiner alleges, "Claims 13-22 and 24-33 are module and computer readable medium comprising instructions for executing the method of claims 1-10 above. They are therefore rejected under the same rationale." OA, pg. 9.

Thus, claim 13 is believed allowable for at least the reasons provided above regarding claim 1. The Applicants therefore respectfully request reconsideration and allowance of claim 13.

Claims 14-17 and 19-22

The Examiner alleges, "Claims 13-22 and 24-33 are module and computer readable medium comprising instructions for executing the method of claims 1-10 above. They are therefore rejected under the same rationale." OA, pg. 9.

Thus, claims 14-17 and 19-22 are believed allowable for at least the reasons provided above regarding claims 2-5 and 7-10 respectively. The Applicants therefore respectfully request reconsideration and allowance of claims 14-17 and 19-22.

Claim 24

The Examiner alleges, "Claims 13-22 and 24-33 are module and computer readable medium comprising instructions for executing the method of claims 1-10 above. They are therefore rejected under the same rationale." OA, pg. 9.

Thus, claim 24 is believed allowable for at least the reasons provided above regarding claim 1. The Applicants therefore respectfully request reconsideration and allowance of claim 24.

Claims 25-28 and 30-33

The Examiner alleges, "Claims 13-22 and 24-33 are module and computer readable medium comprising instructions for executing the method of claims 1-10 above. They are therefore rejected under the same rationale." OA, pg. 9.

Thus, claims 25-28 and 30-33 are believed allowable for at least the reasons provided above regarding claims 2-5 and 7-10 respectively. The Applicants therefore respectfully request reconsideration and allowance of claims 25-28 and 30-33.

Claim 11

Claim 11 recites, "The method of claim 1, wherein increasing available capacity in containers includes compressing data within the resource tier until the resource tier is in compliance with the management policy."

The Examiner alleges that NT teaches "wherein automatically attempting to bring the resource tier in compliance with the management policy includes compressing data within the resource tier until the resource tier is in compliance with the management policy. OA, pg. 10. In support of this position, the Examiner cites the following passage of NT:

> . . . storage management services that are described in this section
> help administer large collections of files. Some save storage,
> complementing the role of data compression . . . . NT, pg. 6, col. 1,
> ln. 27-30.

The cited passage mentions "data compression." The Applicants respectfully assert, however, that NT does not teach data compression. While NT expresses that it would be desirable to have a system that would be capable of such activity, there is nothing in the remainder of NT that teaches or suggests data compression. The Applicants contend that a conclusion of obviousness with respect to a claim feature cannot be based on a statement of desirability of a feature without any description thereof.

For at least these reasons, claim 11 is believed allowable over Bucky in view of Tivoli and further in view of NT. The Applicants respectfully request reconsideration and allowance of claim 11.

Claims 23 and 34

The Examiner alleges, "Claims 23 and 34 are module and computer readable medium comprising instructions for executing the method of claim 11 above. They are therefore rejected under the same rational [sic]." OA, pg. 10.

Thus, claims 23 and 34 are believed allowable for at least the reasons provided above regarding claim 11. The Applicants therefore respectfully request reconsideration and allowance of claims 23 and 34.

## CONCLUSION

In view of the forgoing remarks, it is respectfully submitted that this case is now in condition for allowance and such action is respectfully requested. If any points remain at issue that the Examiner feels could best be resolved by a telephone interview, the Examiner is urged to contact the attorney below.

No fee is believed due with this Amendment, however, should such a fee be required please charge Deposit Account 50-0510. Should any extensions of time be required, please consider this a petition thereof and charge Deposit Account 50-0510 the required fee.

Respectfully submitted,

Dated: August 27, 2007

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**MARKUP SHEET**

[ABST]    A method, system, and computer program for managing multi-tiered
resource systems, such as Storage Area Networks (SANs).  Resource
tiers in the resource system are examined to if they are in
compliance with a management policy.  If a resource tier is not in
compliance with the management policy, a processing operation
automatically ~~attempts to bring the resource tier in compliance with~~
~~the management policy~~ <u>increases available capacity in containers in</u>
<u>order to bring the containers in compliance with the management</u>
<u>policy</u>.  The management policy may, for example, include a
requirement that an expiration date of the resource tier occur after
a maintenance date.